

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

EBEN ALEXANDER, III, M.D.

Plaintiff,

v.

Case No. 04-10738-MLW

BRIGHAM AND WOMEN'S PHYSICIANS
ORGANIZATION, INC., successor to
Brigham Surgical Group Foundation, Inc.,
BOSTON NEUROSURGICAL FOUNDATION
INC., BRIGHAM SURGICAL GROUP
FOUNDATION, INC. DEFERRED
COMPENSATION PLAN, BRIGHAM
SURGICAL GROUP FOUNDATION, INC.
FACULTY RETIREMENT BENEFIT
PLAN, COMMITTEE ON COMPENSATION
OF THE BRIGHAM SURGICAL GROUP
FOUNDATION, INC., and PETER BLACK, M.D.

Defendants.

**EMERGENCY JOINT MOTION FOR THREE DAY EXTENSION
OF PLAINTIFF'S RULE 56 DEADLINE**

The parties hereby respectfully request that this Court extend the time for Plaintiff Eben Alexander, III, M.D. to file his Motion for Summary Judgment and for the parties to file their Stipulated Facts for Cross Summary Judgment Motions by three days to April 8, 2005. In support of this motion, the parties state as follows:

1. The current deadline for Plaintiff's Motion for Summary Judgment is April 5, 2005.
2. The parties have been working together cooperatively and effectively to exchange information and to stipulate to all facts that will provide the basis for the Court's decision on the sole issue to be addressed in the summary judgment papers (*i.e.*, whether the Brigham Surgical

Group Foundation, Inc.'s unfunded deferred compensation plans constitute valid "top hat" plans under ERISA) and have circulated versions of a stipulation of facts to be filed with Plaintiff's Motion for Summary Judgment.

2. The parties need a bit more time to try to reach agreement regarding a complete and inclusive stipulation.

3. This extension is necessary primarily because both Plaintiff's lead counsel and Defendants' lead counsel have been out of the office because of other commitments. Mr. Paris has been out of the office during the past few weeks because of the birth of his son. Mr. Casey has been in San Francisco and in Arizona for the last week on business.

WHEREFORE, the parties respectfully request that this Court extend the time for Plaintiff to file his Motion for Summary Judgment and for the Parties to file their Stipulated Facts for Cross Motions for Summary Judgment to April 8, 2005.

Respectfully submitted,

For the Plaintiff,

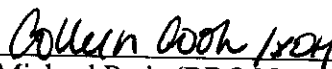
EBEN ALEXANDER , III M.D.

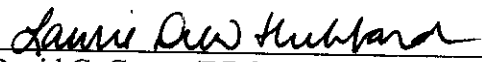
For the Defendants,

BRIGHAM AND WOMEN'S PHYSICIANS
ORGANIZATION, INC., BOSTON
NEUROSURGICAL FOUNDATION INC.,
BRIGHAM SURGICAL GROUP
FOUNDATION, INC. DEFERRED
COMPENSATION PLAN,
BRIGHAM SURGICAL GROUP
FOUNDATION, INC. FACULTY
RETIREMENT BENEFIT PLAN,
COMMITTEE ON COMPENSATION OF
THE BRIGHAM SURGICAL GROUP
FOUNDATION, INC., and PETER BLACK,
M.D.,

By his attorneys,

By their attorneys,


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Dated: April 5, 2005
Boston:7427.1